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Windsor's casino bet pays off

by Ronald E. Derochie AACI, FRI, CMR, PLE

After the Province announced the first gambling casino would open in Windsor, Ontario, two polarized views arose. The pro group predicted jobs for all with the streets of Windsor paved with gold. The anti-gaming faction forecast rising crime, traffic congestion and social decay.

Now, almost four years after the first casino opened, neither scenario has materialized, although it is generally accepted that positive factors outweigh negative, so far. It seems investment in the city has reached critical mass, spawning a growing number of new private investments. A good number of the original detractors have changed their minds, and the pro-casino lobby is stronger than ever.

Opened in 1994

The evolution of Windsor's gaming industry includes the opening of the "interim" casino in the former art gallery in May of 1994; the opening of a second "temporary" facility in a Mississippi-style river boat in December of 1995, and finally the "permanent" casino scheduled to open in June of 1998.

The interim facility as well as the river boat were scheduled to close upon the opening of the permanent casino. However, Detroit, Michigan, has finally approved gaming with three separate facilities planned to open next year directly across the river. In response, the voters in November's municipal elections supported creation of another casino. Given that public support, the ministry is considering a second casino facility for Windsor.

Effects on business

In June of 1997, the City Centre Business Association was formed as a partnership between the old Downtown Business Association, the Windsor - Essex County Development Commission and the City of Windsor. According to managing director, Fran Fanaro, there has been a snowball effect to recent announcements of new city projects. The sheer weight of new investment is creating a flood of additional investors anxious to participate in the city's growth.

A $75 million hotel complex is scheduled to be constructed opposite the permanent casino on the old market site. Land assembled by the city (pre-casino) to the west of Ouellette Avenue is now the subject of a proposal selection that will see a major arena and entertainment complex built over the next two years. The Mady group have announced they will renovate an office tower at 500 Ouellette Avenue to house a large charity casino as well as residential condominiums.

Shortage of hotels, staff

Another active group is the City Centre Revitalization Task Force. Thom Racovitis, chairman of the board for the restaurant association and a member of the task force, says the city continues to suffer a shortage of rooms and convention space. There are by his estimate 1,145 rooms currently available plus an additional 400 to be added by the opening of the permanent casino. Racovitis notes that a 2,000-plus banquet or convention cannot be accommodated at this time, while much larger facilities will be needed. In addition, the local hospitality industry has a current shortage of between 3,500 and 5,000 employees, considerably more than predicted two years ago.

Elizabeth Hamel, general manager of the Convention and Visitors Bureau of Windsor, Essex and Pelee Island, produced some other interesting numbers. Over the past three years, the number of visitors has increased to 8 million from 3.2 million (+250%). Tourist spending has increased to more than $750 million from $300 million. Visiting motor coaches (international) increased to 4,002 from 356 (+1,124%).

Photos courtesy Casino Windsor

with spending increasing to more than $25 million from $1.45 million (+1,732%). The last visitor survey, conducted in August of 1997 indicated that 66% of casino patrons have dined at local restaurants, 30% have shopped outside the casino and 20% have taken in local attractions. At least 51% were identified as first time visitors.

On average, more than 22,000 people per day visit the two Windsor facilities. An estimated 85 per cent of them are U.S. residents. Average gross income for the casinos is in the range of $1.25 million per day.

Crime is down

Staff sergeant David Rossell, media relations officer for the Windsor Police Department, revealed a surprising trend. Crimes against people have risen to 88 incidents in 1997 from 83 incidents (+6.8%) compared to 1996. However, the subcategory of sexual assaults has dropped by 88% over the same period. Property crime has decreased to 18 incidents last year, from 38 (-47.4%). In fact, overall crime has dropped by 9.46% city wide, and 18.86% in the casino neighbourhood. One reason for these improvements is the $1.5 million addition to the police budget due to the casino. This has allowed the department to increase its staff by 25 new officers.

What about gambling addicts?

On the down side, Gamblers Anonymous claims increased hardships for a growing number of people susceptible to gambling addiction. While this group represents a very small percentage of the 22,000 daily visitors, they are negatively affected by the gaming industry.

Jim Mundy, director of corporate communications for Casino Windsor, points out that the province has allowed legalized gambling at horse races, bingo games and approved lotteries for longer than he can remember. Nevertheless, Casino Windsor recognizes the problem of addiction and has taken steps to alleviate (as much as possible) any negative influences. It works closely with, and refers some patrons to, the Canadian Foundation on Compulsive Gambling. Casinos in Windsor, Rama and Niagara all urge patrons to "have fun and gamble with your head, not over it".

All three participate in training sessions for their staff whereby compulsive gamblers can be identified and encouraged to exercise personal responsibility.

Boost for City Infrastructure

A number of city improvements have occurred as a direct result of the casino. Super adequate parking facilities have been constructed in the expectation of increased traffic. There are shuttle busses from each of the major parking lots to each casino at all hours of the day and night. Traffic flow is no worse than prior to the casino opening, although on-street parking is very scarce.

In addition, the Windsor Utilities Commission has just completed a new state-of-the-art district energy system ("Northwind Windsor") in partnership with Ontario Hydro, Windsor Utilities Commission and Thermal Technologies of Chicago. The main cooling plant is located in the sub-basement of the permanent casino and will be tied to other major facilities in the downtown core.

Mixed impact on values

To say property values did not react as expected is an understatement. Inside the casino perimeter, values rose by as much as 300 to 400 per cent, due in part to "value in use" considerations under expropriation. However, commercial property values in the immediate area did not respond to the interim casino.

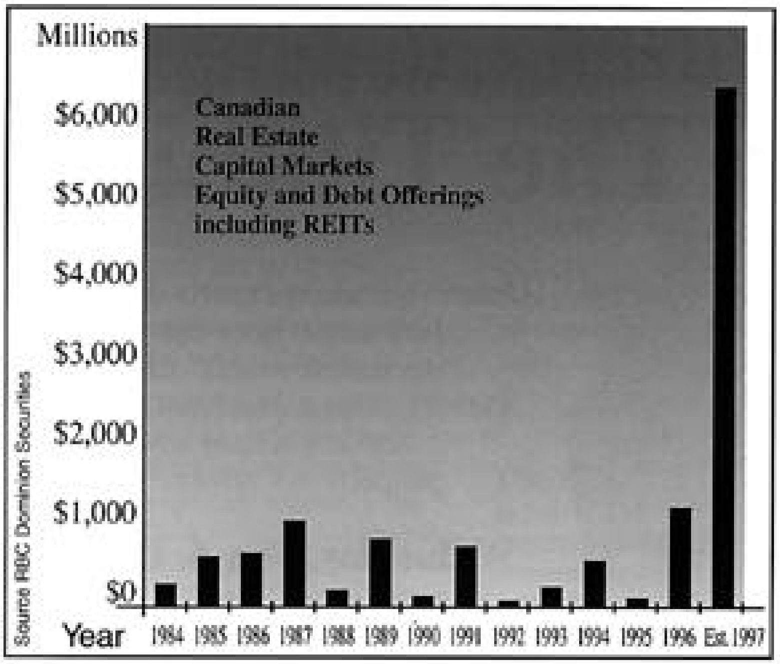
There appears to be very little purely speculative investment. Property values immediately east of the casino have not increased, largely because it is zoned residential according to Windsor's riverfront development plan. On the other hand, the plan's "Western Anchor" site, assembled by the city prior to the casino, has four major entertainment-based development proposals under review – all of which top $600 million. Surrounding land values are expected to increase, especially for new restaurants, taverns, etc. Specific locations within two or three blocks of the permanent casino have recently increased dramatically, but only where sparked by specific development proposals.

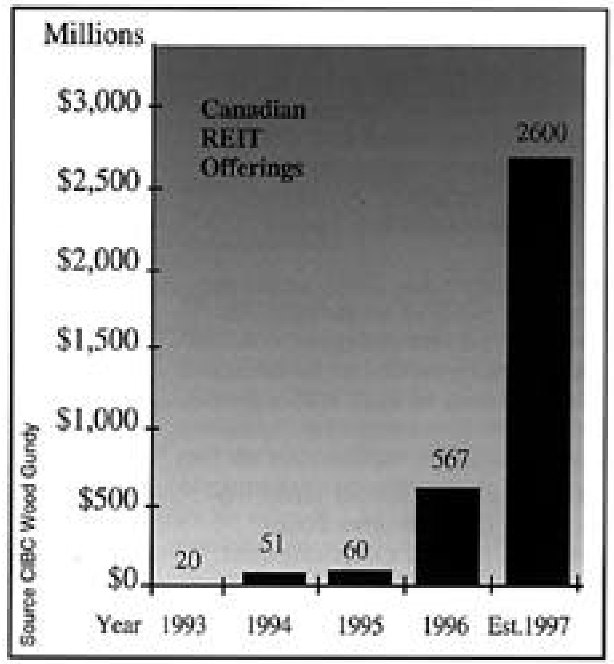
Conclusion

Almost four years ago, the first casino opened in Windsor amid great controversy. It has been extremely difficult to balance the competing arguments. However, this city seems to be learning to live with its new role. Detroit's planned casinos will no doubt bleed off some of the market share, but the general feeling here is that a new gaming "destination" will be created, with at least six international casinos to choose from.

The streets are not paved in gold, but the economy is booming and there are very few clouds on the horizon.

Ronald Derochie is principal of Derochie & Associates Limited, Windsor, which offers appraisal and real estate services throughout southwestern Ontario.





A year awash in cash

by Bonnie Bowerman

In 1997, the flow of money from equity and unsecured debt investors into Canada's real estate markets became a deluge.

This was a dramatic change from just three short years ago, when Real Estate Investment Trusts (REITs) were getting off to a faltering start and the mere mention of a public real estate company "Initial Public Offering" (IPO) was enough to bring polite but incredulous stares from Bay Street's deal brokers.

In 1997, an estimated $4.1 billion has been raised in equity and unsecured debt financing by real estate companies and an additional $2.6 billion has been raised by REITs. That is a total of $6.7 billion in one year – only $300 million less than was raised in the last 13 years combined!

Debt and common equities

Real estate companies played the dominant role in reaping the benefits from the capital markets. Brookfield Properties raised $1.3 billion in common equity through four issues in 1997, although a component of this related to conversion of parent company loans to Brookfield into equity. Cambridge Shopping Centres, O & Y Properties and TrizecHahn also raised significant amounts of equity. Of the total of $4.1 billion in capital raised by real estate companies, $1.4 billion related to unsecured debt.

IPOs also came back into vogue: offerings by Cadillac Fairview Corporation, Bentall Corporation, Goldlist Properties and a variety of others were fully subscribed. For many real estate companies who "stayed alive 'til 95", the past year has made having a pulse truly worthwhile.

This deluge is particularly surprising when you consider how poorly the Toronto Stock Exchange Real Estate and Construction Index has been performing. Since January of 1987, the index has lost 74% of its value on a total return basis, providing a negative annual return of -12%, compared to the positive annual return of 9.5% on the TSE.

Despite this poor historic performance, real estate is the one sector that many investors feel is undervalued and likely to experience growth. In addition, the coupon shock many investors are experiencing with today's low interest rates makes the high yields promised by REITs extremely attractive.

REITs doubled

A REIT is a trust that acquires, develops, manages and may eventually sell real estate assets. Its business activities are generally restricted to those which generate rental income. The concept originated in the US., as a creature of American tax laws designed to encourage investing in commercial real estate.

Under Canadian laws, REITs are exempt from paying income or capital gains taxes on funds that are distributed to their unit holders. Consequently, unlike most real estate companies, distributed net income and profit is taxed only once in the hands of the unit holder.

REITs have more than doubled their market capitalization in one year, raising a total of $2.6 billion in equity and unsecured debt. This is $1.53 billion more than the previous four years combined, commencing in 1993 when Canadian REITs first emerged as closed ended listed trusts or modified mutual fund trusts.

Stronger players, stronger markets

The influx of money into Canada's real estate capital markets has had several noticeable effects:

- Financially stronger, well capitalized public real estate companies are actively trying to acquire new assets.
- Newly formed REITs (or companies looking to form REITs) are in acquisition mode, to acquire properties that have the ability to produce the yields their investors are looking for – yields which are typically eight to nine per cent on a pre-tax basis.
- The volume and scale of property transactions has increased. Colliers International

Eulogy to Office Building Conversions

by Dean Macaskill

The conversion of office buildings into residential condominiums was born in 1994 when Huang and Danczkay purchased 1901 Yonge Street at Davisville Avenue. At that time, the real estate recession was in full force and very little product was selling. Conversion of many of these lower "B" and "C" class buildings located downtown and mid-town seemed like a panacea.

What ensued was a rash of sales undertaken to capitalize upon this theme. The early purchasers suffered the highest costs and the lowest returns, due to the relatively high cost of acquisition and the time required to move the process through City Hall. The project at 1901 Yonge Street, acquired at a cost of approximately $40 per square foot of building area, took 12 months to approve. Over the next couple of years, acquisition costs dropped to between $20 - $30 per square foot and the approval period was shortened to three to six months.

The reduction in acquisition cost could be traced to the following:

- Office buildings, designed for office accommodation, did not convert to residential use as easily as anticipated. Costs exceeded initial projections.
- Market demand was lukewarm. Although they were essentially brand new units, the stigma remained that these were old buildings and not new from the ground up. Also, this meant they were not covered under the Ontario New Home Warranty Program. Selling prices for units in converted buildings were in the range of $185 per square foot, while units in new buildings sold in the $200 per square foot range.
- Those who had completed a conversion were wary of starting another one. If one reviews the list of converted buildings over the past three years, one will see a different purchaser in every case. This resulted in a dwindling list of experienced purchasers.

Given market activity in the past 12 months, it is reasonable to suggest that the recession is finally over in our industry. We witnessed property values rise from a low of $8 per square foot for 60 Adelaide Street East in 1996 to $86 per square foot for 1320 Yonge Street last year. We have also witnessed office rental rates for the highest quality buildings in downtown Toronto rising beyond $25 per square foot net effective, from 1996 levels of $10 per square foot net effective.

Suddenly, office buildings are in great demand and there is scarce supply. A market well capitalized from successful initial public offerings and the rise of the REIT industry has resulted in multiple bid offers on most properties this past year. It was not uncommon to receive more than 10 offers on listed properties.

Another interesting phenomenon that occurred in 1997 was the acquisition of property by users. In fact, the initial rise in property values could be traced to this segment. The sale of 1133 Yonge Street at the end of 1996 to Sherritt International at $56.50 per square foot sent shock waves through the industry. Subsequent sales over the course of 1997 proved this sale was not an anomaly.

The last factor which has spelled the end to the conversion of office buildings is the supply of residential product. Over the course of 1997, the housing market improved, with condominium sales reaching a high for the decade. In conjunction with the amount of sales recorded was the number of new projects which have been announced. These include lifestyle-oriented loft buildings, new or planned construction on virtually every vacant lot in the general downtown and mid-town cores, and sites such as 801 Bay Street, 1047 Yonge Street and 43 Eglinton Avenue East which have already demolished existing office buildings.

The market is now experiencing a glut of opportunities with most investors only seeking out "A" locations for acquisition. It is reasonable to predict that some of the marginal locations may have to shelve their plans for the time being.

In conclusion, a revitalized office market, combined with a glut of condominium offerings has resulted in the demise of the conversion of office buildings to residential buildings. Prices have risen well beyond economic means.

One investor, who has recently gone firm on the acquisition of two downtown office buildings for conversion to hotel use, called the other day for an opinion on the market for "C" class office space from a leasing perspective. It appears from this conversation that this purchaser may now have second thoughts about proceeding with his original concept. Indeed, this investor may make a wiser choice in retaining the buildings for office purposes, as the availability of "A" and "B" space in the core is declining rapidly with no new supply. Since the "C" Class office market is poised for both increased activity and rapidly escalating net effective rents, why convert?

Dean Macaskill is senior director of the investment division of J.J. Barnicke Limited, Toronto.

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has reported that $4 billion in commercial property changed hands nationwide in the first six months of 1997 alone.

- Liquidity has returned to many sectors in real estate where it has been painfully absent.
- The added liquidity has brought with it rapid changes in perspectives on value. This is particularly true in some of the western markets such as Calgary and Edmonton where the appetite for investment grade product is creating intense competition.

Conclusion

This huge injection of equity and low cost debt capital into the real estate capital markets has not only provided much-needed liquidity and enhanced profitability, it has brought back optimism. As competition increases for product and the market fundamentals support replacement costs, we may in the spring start to see what was almost an endangered species — the urban crane.

Bonnie Bowerman is president of the Association of Ontario Land Economists and a senior property investment analyst with a major lender.

Environmental Law Update

by Dianne Saxe, D. Jur.

In the last two years, there have been significant changes in the legal and practical regime affecting contaminated land.

In practical terms, cleanups are cheaper, easier and less risky. Investigative techniques have improved. Unit costs for cleanup or disposal of contaminated soils have declined, and there are more technical options than ever before. Cleanup guidelines for some common contaminants, such as gasoline, have been relaxed. There is a greater regulatory tolerance for leaving contaminants in place, if they do no harm. It also helps that insurance policies are now available to cap cleanup costs, and that the real estate market has revived. Cumulatively, these factors now make it attractive to clean up some sites previously abandoned as worthless.

On the legal side, the principal changes of the last two years have been the adoption of Ontario's new Cleanup Guidelines, and the amendment of the federal Bankruptcy Act – which may have serious implications for other properties. These are briefly described below.

Ontario Cleanup Guidelines

On June 10, 1996, the Ontario Ministry of the Environment released its Guidelines for Use at Contaminated Sites in Ontario[1]. These Guidelines do not have the force of law; breach of them is not in itself an offence. Nevertheless, cleanups are generally considered incomplete unless the Guidelines have been met. Municipalities also rely heavily on the Guidelines in decisions on building permits, planning approvals, zoning changes, etc.

The Guidelines allow property owners to select background, generic, or site-specific risk-based standards for their sites. Special rules apply to particularly sensitive sites.

The Guidelines list generic soil and groundwater criteria for 116 contaminants. There are different standards for agricultural, residential/commercial and industrial land uses: Table A for areas where underground water is used for drinking; Table B for areas which it is not (e.g. where water is supplied by a municipal water system which does not use underground wells).

For some contaminants, there are more lenient standards for sites with less permeable soils.

Landowners may choose a "stratified" cleanup, which permits some contaminants to remain in soils more than 1.5 metres below ground. This should be registered against the title to the land, to give future owners notice that these deeper soils require special care if uncovered.

> ***Bankruptcy Act amendments may affect non-contaminated properties***

For sites which do not meet the generic standards, but which are not a significant risk to people or the environment, a Site Specific Risk Assessment may justify dealing with the contamination in place. This rather elaborate procedure requires public and municipal consultation plus peer review. Some municipalities, such as Etobicoke, require a second peer review on top of the MOE requirements.

Site specific risk assessments are divided into Level 1 (site-justified alterations to MOE model assumptions) and Level 2 (reliance on techniques to prevent exposure). Level 2 requires a detailed risk management plan, including monitoring, financial assurance, and enforceable ways to control changes to the exposure control techniques. Level 2 cleanups should be registered on title.

The MOE (which has been cut by 40% since 1994) no longer "signs off" that sites have been remediated. Final responsibility for verification falls on the site owners and their consultants. The consultant should prepare a Record of Site Condition (RSC), certifying that s/he has appropriate qualifications and that the site conditions have been fully and fairly described in a remediation report. The RSC may be filed with the MOE if the cleanup should be registered on title or if the owner wants the MOE to issue an acknowledgement. This is NOT assurance from the MOE that the site is clean.

Appraisers can, and must, rely on environmental experts to apply these Guidelines to any particular site. However, appraisers should ensure that any environmental report they rely on:

- is current (i.e., dated after June, 1996)
- uses appropriate cleanup standards for the site (e.g. industrial or residential/commercial depending on intended land use; Table A or B depending on how groundwater is used in the area), and
- is properly certified by a reliable, and preferably financially sound, consultant

It may also be important to distinguish between "cleanups" that actually leave the site clean, and those which simply justify leaving contamination on site.

Need new disclaimer

In September of 1997, there were major changes to the environmental provisions of the federal Bankruptcy Act. This federal law can override provincial environmental requirements. The key changes are:

- Trustees and receivers can abandon contaminated sites; if so, they need not comply with orders relating to that site.
- The Crown has a superlien for cleanup costs against the contaminated property, and against "any other real property of the debtor that is contiguous thereto and that is related to the activity that caused the environmental condition or environmental damage". This superlien may affect fair market values, because it "ranks above any other claim, right or charge against the property, notwithstanding any other provision of this Act or anything in any other federal or provincial law."

These provisions may affect a wide variety of properties, whether contaminated or not, precisely because they apply to lands "contiguous to" a site with "an environmental condition". Unfortunately, the new sections are hard to interpret, and are bound to result in litigation:

[1] Extensive errata were released in December, 1996

- When is property "of the debtor"? Does the superlien apply to a property after the debtor sells it? Does it matter whether the parcels were in separate ownership when the contamination occurred?

- What does "contiguous to" the affected property mean? Will the superlien apply to a second parcel across a municipal street? What if a single owner has (or had) a series of abutting parcels?

- What is "related to the activity that caused the environmental condition"? Does it matter who caused the pollution, or whether the polluting activity was carried on by a person other than the debtor? How will it be applied where the cause of the contamination is unknown?

- Are the "costs of remediating any environmental condition" limited to those costs which the Crown has already incurred, or do they include the costs of activities which the Crown has ordered someone to carry out, but which no one has performed?

- How will lenders manage the risk of losing their priority on a secured property?

In practical terms, most appraisers should avoid these questions by adding an appropriate disclaimer to their reports.

For further information on environmental law developments, feel free to visit my web site at http://www.envirolaw.com

Dianne Saxe, one of the first environmental law specialists certified in Ontario, heads her own environmental law and mediation firm in Toronto.

James E. Farr 1925 - 1997

It is with great regret that we announce that one of this organization's co-founders, Mr. James E. Farr, passed away peacefully on 6th November, 1997, after a brief illness.

Born in Allenmore, U.K., in 1925, Jim graduated from London University and the Royal Agriculture College, was a Chartered Surveyor and a Member of the Appraisal Institute of Canada. During WWII, he served in Italy and India as a lieutenant in the Royal Engineers.

Jim started his career in Canada in the mid 1950s, and practised as a Real Estate Appraiser for 40 years, until his retirement in 1990 as president of Bosley Farr Associates Ltd.

Jim had a very close association with the OLE. He was one of the co-founders, its second president and a driving force in the Association's early years who conceived the Association's current title. The first article in the Association's first Journal (in March of 1966) was by Jim.

During his long and successful career, he undertook many major assignments and was regularly retained as an expert witness, in a wide variety of matters, but with a special emphasis on expropriation. His expertise and insights in court and litigation-related matters, gained Jim the respect of his peers and clients in legal, accounting and business circles.

He is survived by his wife Diana, and three children: Michael, Jonathan and Jane.

From page 8

Hydro Restructuring

In November, the province released a White Paper outlining ways to introduce competition into the wholesale and retail electricity markets by the year 2000 and to create a business climate which supports new technologies, new services and new ways of doing business. New rules are expected this spring.

The paper proposes separate corporations for Ontario Hydro's electric generation and transmission activities. Local utilities would also be required to keep their wire business separate. Existing Ontario Hydro debt will be held by a publicly-owned financial holding company.

Developers and builders are making the case for return to a cost-recovery model for installation of municipal electrical services through the rate structure.

Andy Manahan is director of industry relations for the Ontario Home Builders' Association.

Update Your Listing!

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Spring Dinner Meeting

Dianne Saxe

Come and hear this noted specialist in environmental law expand on her Journal article and other topics of interest to Professional Land Economists.

Thursday, March 5, 1998
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The Legislative Beat

by Andy Manahan PLE

New Rental Regime

The Tenant Protection Act received third reading on Nov. 19, 1997. Following passage of the Bill, I was quoted by the Toronto Star, saying that: "current rent control regulations (have) created a 'psychological barrier' to building new apartments". When the new system goes into effect in April 1998, new apartment buildings will be exempt from controls, and existing units will become exempt when voluntarily vacated.

Regulations have yet to be finalized but there will be transitional provisions concerning recovery of capital expenditures for work completed since June 25, 1996, when the TPA consultation paper was released. Tenants have reason for optimism because any property tax reductions must be reflected in lower rents.

Once again, the old adage that compares law-making with sausages — 'you really don't want to know what went into the making of them' — holds true for the TPA. After the Bill was passed, problems were found in the sections on the termination of leases. These would hamper a condominium developer's ability to deal with unsold inventory.

Owners of rental buildings in Kingston, where there is a large student population, face similar problems. The Act says termination agreements are void if entered into at the time the tenancy agreement is entered into. Private sector landlords would be at a disadvantage because the university is allowed to use termination agreements.

Amendments are being considered by the Ministry of Municipal Affairs and Housing.

Apartment Vacancies

CMHC's most recent rental market survey, released last November, shows that the overall Ontario rate dropped from 2.8% to 2.6% over the past year. Vacancy rates dropped in Toronto, Oshawa, London, St. Catharines and Ottawa. For the Toronto CMA, the current rate of 0.8% means that with appropriate property tax revisions, the potential for investment in new rental properties will improve markedly. What is now needed is fair GST treatment for rental.

Property Taxes

In many cities and towns across the province, property taxes will be a major source of debate over the coming months. The new rates will be influenced to varying degrees by the shifting of local and provincial responsibilities, the implementation of current value assessment and any realignment of municipal boundaries. James Rusk, a Globe and Mail reporter, perhaps summed it up best when he wrote "when the councils that were elected last month [November] take over the governing of Ontario municipalities on Jan. 1, even the most experienced local politicians are going to find their world has been turned upside down by Queen's Park."

Of specific interest is how councils will set tax rates for different classes of properties. Single-family residences have typically been favoured over other classes but with greater transparency, these inequities will be difficult to maintain.

Education Taxes and Charges

Bill 160 was passed late last year to much protest from teachers' unions and others. From a taxation standpoint, a major change is that households whose residential property is assessed at a particular value will pay the same amount of education tax no matter where in Ontario that household is situated. In addition, the provisions for a uniform education tax rate for all residential properties will reduce the relative tax rates on multi-family properties compared to single-family.

The use of education development charges will be restricted to cover land costs only. Provincial grants will pay for school construction. Existing EDC by-laws can remain in effect during an 18-month transition period.

Developers and builders have called for greater fairness in school site valuation. The Planning Act currently calls for sites to be offered to school boards at a value that does not "... exceed the value of the land on the day before the day of the approval of draft plan of subdivision." Obviously remuneration at a building permit ready/fully serviced stage would be more equitable and could be covered by slightly higher EDCs per unit within the benefitting area.

Changes to the financing of schools and to the planning horizon (to the year 2025) should bring about more cost-effective capital spending. Multi-use facilities (e.g. Stratford's combined school/recreation facilities) and fixed period leasing of surplus properties will become more common. Operating costs are expected to become a key consideration in future school plans.

Limitations Act Reform

Attorney General Charles Harnick recently said a new bill will be introduced in 1998. Limitations law sets the time periods for commencing lawsuits. For the construction industry, the intent is to limit liability to ten years for claims based on deficiencies in construction as well as architectural and engineering services. This would reduce hidden costs to business in Ontario. Some companies have been named in lawsuits after 30 years and have had to pay to defend themselves even though it was demonstrated that they had nothing to do with the incident.

Provincial Planning Policy Statement

The Ministry of Municipal Affairs and Housing intends to release two new advisory documents:

(1) a policy handbook that will provide factual information to assist people who have questions about the policy statement and

(2) a series of technical manuals that will provide technical or scientific data.

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